

## REMARKS

Reconsideration of this application, as amended, is respectfully requested.

By this Amendment, claim 1 was amended to introduce the limitations of claims 2, 3, and 6. Claims 2, 3, and 6 have been canceled. Support for the amendments to claim 1 can be found in as-filed claims 1-3 and 6, and throughout the as-filed application. Claims 4, 5, and 7-10 have been amended to more particularly point out and distinctly claim the subject inventions. The addition of "new matter" has been scrupulously avoided.

Claims 1, 4, 5 and 7-10 are now pending in this application.

### I Response to Drawing Objections

In paragraph 1 on page 2 of the Action, the Patent Office objected to the drawings for omitting reference designations. The Applicant believes that the above amendment overcomes this objection.

### II Response to §112 Rejections

In paragraphs 2 and 3 on pages 2 and 3 of the Action, the Patent Office rejected claims 3-10 under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter regarded as the invention. The Applicant believes that the above amendment overcomes these rejections.

### III Response to Anticipation Rejection Based upon Unterberg

In paragraphs 4 and 5 on pages 3 and 4 of the Action, the Patent Office rejected claim 1 under 35 U.S.C. §102(b) as anticipated by U.S. Patent 3,989,312 of Unterberg [herein "Unterberg"]. The Applicant respectfully submits that these rejections are inappropriate and requests that these rejections be reconsidered and withdrawn based upon the following comments and observations.

The Applicant's undersigned Agent typically refers to the MPEP for guidance when considering whether an anticipation rejection is appropriate. For instance, MPEP § 2131 defines the conditions under which an anticipation rejection is appropriate:

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). >"When a claim covers several structures or compositions, either generically or as alternatives, the claim is deemed anticipated if any of the structures or compositions within the scope of the claim is known in the prior art." *Brown v. 3M*, 265 F.3d 1349, 1351, 60 USPQ2d 1375, 1376 (Fed. Cir. 2001) (claim to a system for setting a computer clock to an offset time to address the Year 2000 (Y2K) problem, applicable to records with year date data in "at least one of two-digit, three-digit, or four-digit" representations, was held anticipated by a system that offsets year dates in only two-digit formats). .. "The identical invention must be shown in as complete detail as is contained in the ... claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). The elements must be arranged as required by the claim, but this is not an *ipsissimis verbis* test, i.e., identity of terminology is not required. *In re Bond*, 910 F.2d 831, 15 USPQ2d 1566 (Fed. Cir. 1990). [Emphasis added]

The Applicant submits that, contrary to the requirements for an appropriate anticipation rejection as outlined in the MPEP, Unterberg does not include "each and every element" of the invention recited in claim 1, nor does Unterberg show the invention "in as complete detail" as in these claims.

Though Unterberg discloses a brake pressure regulating device, Unterberg does not disclose the invention recited in claim 1. In response to the Patent Office's specific statements in the first paragraph on page 4 of the Action, first, contrary to the patent Office's comments, Unterberg does not disclose a device that hydraulically communicates with the braking components of the "front wheels" *and* the "back wheels." As clearly shown in Figures 1 and 2 of Unterberg cited by the Patent Office, the Unterberg device is only associated with a single set of brake components, specifically, the "rear wheel brakes 6." Based upon this clear failure of

Unterberg to teach the flow of fluid to both a front and back brake assemblies, this rejection as anticipated by Unterberg is untenable.

However, further distinctions from Unterberg are readily apparent. For example, Unterberg fails to teach or suggest the following features of claim 1:

- a hollow cylindrical body having a piston head at each end
- an aperture in the cylindrical body wherein the coaxial bore of the cylindrical body is in fluid communication with the housing bore
- a ball positioned in the coaxial bore of the cylindrical body, the ball biased by a spring into contact with a ball seat having an aperture in fluid communication with the housing bore; and
- a closure component positioned in a distal end of the bore of the housing, the closure component having a finger projection positioned to penetrate the ball seat aperture and contact the spring-biased ball.

Based upon all these distinctions of claim 1 from Unterberg, the Applicant respectfully requests that the rejection of claim 1 as anticipated by Unterberg be reconsidered and withdrawn.

### III Response to Obviousness Rejection Based upon Unterberg and Sorensen

In paragraphs 6 and 7 on pages 4 and 5 of the Action, the Patent Office rejected claims 2-7 pursuant to 35 U.S.C. §103(a) as obvious in view of the combined teachings of Unterberg and U.S. Patent 5,741,049 of Sorensen, et al. [herein “Sorensen”]. The Applicant respectfully submits that these rejections are inappropriate and requests that these rejections be reconsidered and withdrawn based upon the following comments and observations.

First, the Applicant submits that these claims are patentably distinct from Unterberg and Sorensen for the same reasons that their parent claim 1 is patentably distinct from Unterberg. Based upon this distinction alone, the Applicant requests that these rejections be reconsidered and withdrawn.

Second, the Applicant submits that Sorensen does not address the deficiencies of Unterberg. Specifically, in a manner similar to Unterberg, the Sorensen proportional valve does not hydraulically communicate with the braking components of the “front wheels” *and* the “back

wheels.” As described throughout Sorensen, but shown most clearly in Figure 6 of Sorensen, the Sorensen proportional valve (P.V.) 509 in Figure 6 is only hydraulically communicating with rear brake assemblies 517 and 519. Specifically, as described at 7:45-49 of Sorensen, “The brake pedal 501 activates dual master cylinders 503 and 505, the latter supplying full master cylinder pressure to the front brake through line 507.” [Emphasis added.] Clearly, just like Unterberg, unlike the invention recited in claim 1, the Sorensen device only communicates with one brake, not front and back brakes.

Based upon this distinction alone, again, Sorensen does not provide or suggest the teachings that are missing from Unterberg, and the invention recited in claim 1 cannot be obvious in view of Unterberg and Sorensen. The Applicant respectfully requests that these rejections as obvious in view of Unterberg and Sorensen be reconsidered and withdrawn.

With respect to the rejections of dependent claims 4, 5, and 7, the Applicant submits that these claims are not obvious in view of Unterberg and Sorensen for the same reasons that claim 1, from which they depend, is not obvious. In addition, aspects of the dependent claims are not disclosed or suggested by Unterberg or Sorensen. For example, with respect to claim 7, nowhere in Unterberg and Sorensen is it taught or suggested that the position of a “closure component” be adjustable by the user whereby the preload on an “elastic component” can be varied to vary a set pressure value. The Applicant respectfully requests that these rejections be reconsidered and withdrawn.

#### IV Response to Obviousness Rejection Based upon Unterberg, Sorensen, and Farr

In paragraph 8 on page 5 of the Action, the Patent Office rejected claims 8-10 pursuant to 35 U.S.C. §103(a) as obvious in view of the combined teachings of Unterberg, Sorensen, and U.S. Patent 3,304,128 of Farr [herein “Farr”]. The Applicant respectfully submits that these rejections are inappropriate and requests that these rejections be reconsidered and withdrawn based upon the following comments and observations.

First, the Applicant submits that these claims are patentably distinct from Unterberg, Sorensen, and Farr for the same reasons that their parent claim 1 is patentably distinct from

Unterberg and Sorensen, as discussed above. Based upon this distinction alone, the Applicant requests that these rejections be reconsidered and withdrawn.

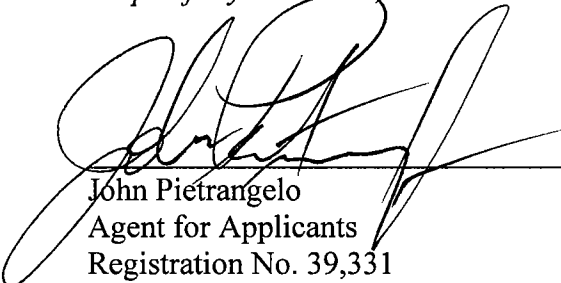
Second, the Applicant submits that Farr does not address the deficiencies of Unterberg and Sorensen discussed above.

V CONCLUSION

The Applicant believes that the above Amendment and Remarks place the application in allowable form. An early and favorable action on the merits of the application is requested.

If a telephone conference would be of assistance in advancing prosecution of the subject application, the Applicant's undersigned Agent invites the Examiner to telephone him at the number provided.

*Respectfully submitted*



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